

§ 20.2103-1

\$600,000), and the estate tax of State X is not applicable to B's estate.

(c) *Unified credit*—(1) *In general.* Subject to paragraph (c)(2) of this section, in the case of estates of decedents dying after November 10, 1988, a unified credit of \$13,000 is allowed against the tax imposed by section 2101 subject to the limitations of section 2102(c).

(2) *When treaty is applicable.* To the extent required under any treaty obligation of the United States, the estate of a nonresident not a citizen of the United States is allowed the unified credit permitted to a United States citizen or resident of \$192,800, multiplied by the proportion that the total gross estate of the decedent situated in the United States bears to the decedent's total gross estate wherever situated.

(3) *Certain residents of possessions.* In the case of a decedent who is considered to be a nonresident not a citizen of the United States under section 2209, there is allowed a unified credit equal to the greater of \$13,000, or \$46,800 multiplied by the proportion that the decedent's gross estate situated in the United States bears to the total gross estate of the decedent wherever situated.

[T.D. 7296, 38 FR 34194, Dec. 12, 1973, as amended at T.D. 8612, 60 FR 43552, Aug. 22, 1995]

§ 20.2103-1 Estates of nonresidents not citizens; "entire gross estate".

The "entire gross estate" wherever situated of a nonresident who was not a citizen of the United States at the time of his death is made up in the same way as the "gross estate" of a citizen or resident of the United States. See §§ 20.2031-1 through 20.2044-1. See paragraphs (a) and (c) of § 20.2031-1 for the circumstances under which real property situated outside the United States is excluded from the gross estate of a citizen or resident of the United States. However, except as provided in section 2107(b) with respect to the estates of certain expatriates, in the case of a nonresident not a citizen, only that part of the entire gross estate which on the date of the decedent's death is situated in the United States is included in his taxable estate. In fact, property situated outside the United States need not be disclosed on

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the return unless section 2107 is applicable, certain deductions are claimed, or information is specifically requested. See §§ 20.2106-1, 20.2106-2, and 20.2107-1. For a description of property considered to be situated in the United States, see § 20.2104-1. For a description of property considered to be situated outside the United States, see § 20.2105-1.

[T.D. 7296, 38 FR 34195, Dec. 12, 1973]

§ 20.2104-1 Estates of nonresidents not citizens; property within the United States.

(a) *In general.* Property of a nonresident who was not a citizen of the United States at the time of his death is considered to be situated in the United States if it is—

(1) Real property located in the United States.

(2) Tangible personal property located in the United States, except certain works of art on loan for exhibition (see paragraph (b) of § 20.2105-1).

(3) In the case of an estate of a decedent dying before November 14, 1966, written evidence of intangible personal property which is treated as being the property itself, such as a bond for the payment of money, if it is physically located in the United States; except that this subparagraph shall not apply to obligations of the United States (but not its instrumentalities) issued before March 1, 1941, if the decedent was not engaged in business in the United States at the time of his death. See section 2106(c).

(4) Except as specifically provided otherwise in this section or in § 20.2105-1 (which specific exceptions, in the case of estates of decedents dying on or after November 14, 1966, cause this subparagraph to have relatively limited applicability), intangible personal property the written evidence of which is not treated as being the property itself, if it is issued by or enforceable against a resident of the United States or a domestic corporation or governmental unit.

(5) Shares of stock issued by a domestic corporation, irrespective of the location of the certificates (see, however, paragraph (i) of § 20.2105-1 for a special rule with respect to certain

withdrawable accounts in savings and loan or similar associations).

(6) In the case of an estate of a decedent dying before November 14, 1966, moneys deposited in the United States by or for the decedent with any person carrying on the banking business, if the decedent was engaged in business in the United States at the time of his death.

(7) In the case of an estate of a decedent dying on or after November 14, 1966, except as specifically provided otherwise in paragraph (d), (i), (j), (l), or (m) of § 20.2105-1, any debt obligation, including a bank deposit, the primary obligor of which is—

(i) A United States person (as defined in section 7701(a)(30)), or

(ii) The United States, a State or any political subdivision thereof, the District of Columbia, or any agency or instrumentality of any such government.

This paragraph applies irrespective of whether the written evidence of the debt obligation is treated as being the property itself or whether the decedent was engaged in business in the United States at the time of his death. For purposes of this subparagraph and paragraphs (k), (l), and (m) of § 20.2105-1, a debt obligation on which there are two or more primary obligors shall be apportioned among such obligors, taking into account to the extent appropriate under all the facts and circumstances any choate or inchoate rights of contribution existing among such obligors with respect to the indebtedness. The term “agency or instrumentality,” as used in paragraph (a)(7)(ii) of this section does not include a possession of the United States or an agency or instrumentality of a possession. Currency is not a debt obligation for purposes of this subparagraph.

(8) In the case of an estate of a decedent dying on or after January 1, 1970, except as specifically provided otherwise in paragraph (i) or (l) of § 20.2105-1, deposits with a branch in the United States of a foreign corporation, if the branch is engaged in the commercial banking business, whether or not the decedent was engaged in business in the United States at the time of his death.

(b) *Transfers.* Property of which the decedent has made a transfer taxable under sections 2035 through 2038 is deemed to be situated in the United States if it is determined, under the provisions of paragraph (a) of this section, to be so situated either at the time of the transfer or at the time of the decedent's death. See §§ 20.2035-1 through 20.2038-1.

(c) *Death tax convention.* It should be noted that the situs rules described in this section may be modified for various purposes under the provisions of an applicable death tax convention with a foreign country.

[T.D. 6296, 23 FR 4529, June 24, 1958; 25 FR 14021, Dec. 31, 1960, as amended by T.D. 7296, 38 FR 34195, Dec. 12, 1973; T.D. 7321, 39 FR 29597, Aug. 16, 1974]

§ 20.2105-1 Estates of nonresidents not citizens; property without the United States.

Property of a nonresident who was not a citizen of the United States at the time of his death is considered to be situated outside the United States if it is—

(a)(1) Real property located outside the United States, except to the extent excludable from the entire gross estate wherever situated under § 20.2103-1.

(2) Tangible personal property located outside the United States.

(b) Works of art owned by the decedent if they were—

(1) Imported into the United States solely for exhibition purposes,

(2) Loaned for those purposes to a public gallery or museum, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and

(3) At the time of the death of the owner, on exhibition, or en route to or from exhibition, in such a public gallery or museum.

(c) In the case of an estate of a decedent dying before November 14, 1966, written evidence of intangible personal property which is treated as being the property itself, such as a bond for the payment of money, if it is not physically located in the United States.

(d) Obligations of the United States issued before March 1, 1941, even though physically located in the United States, if the decedent was not